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VIA ECF

Hon. Gregory H. Woods
United States District Court
Southern District of New York
500 Pearl Street
New York, NY 10007-1312

Re: *Kookmin Bank Co., Ltd. et al. v. Union Station Sole Member, LLC*,
No. 1:22-cv-06649-GHW

Dear Judge Woods:

We represent Plaintiffs Daol Rexmark Union Station LLC (“Union Station Sub”) and Kookmin Bank Co. Ltd. (“Kookmin”, collectively with Union Station Sub, “Lender”) in the above-captioned matter and write to the Court as an update on Lender’s proposed motion for contempt against Defendant Union Station Sole Member (“USSM”) for violating the Court’s Preliminary Injunction Order. The Court set a deadline of April 7, 2025 for Lender to file its motion. (ECF Doc. No. 194.) Rather than file the motion in this action, Lender will add the costs incurred in enforcing Lender’s rights under the Mezz Loan Agreement that would have been the subject of any contempt motion to the recourse action before this Court at *Kookmin Bank Co. Ltd. v. Ashkenazy*, No. 1:22-cv-05802-GHW (S.D.N.Y.) (the “Recourse Action”).

Section 11.22 of the Mezz Loan Agreement provides that the guarantor (i.e. Ben Ashkenazy) is liable for any loss, damage, cost, or expense incurred by Lender for willful misconduct by, or at the direction of, USSM in connection with the Loan. Lender’s proposed motion for contempt concerned USSM’s violations of the Court’s Preliminary Injunction Order (ECF Doc. No. 189), which was entered to protect Lender’s exercise of rights under the Mezz Loan Agreement. These violations constitute willful misconduct, or at the very least, gross negligence, thereby triggering loss recourse under the Mezz Loan Guaranty. Accordingly, Lender will add these costs and expenses to the damages in the Recourse Action. *See, e.g., Gao v. Savour Sichuan Inc.*, No. 19 Civ. 2515 (JPC), 2024 WL 664718, at *4 (S.D.N.Y. Feb. 16, 2024) (permitting post-trial amendment of pleadings to conform to evidence at trial).

Respectfully,

/s/ Y. David Scharf

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cc: All counsel of record, via ECF